IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.48 OF 1991
WITH
CROSS OBJECTION (ST) NO.8304 OF 1991

The State of Maharashtra ... Appellant
Vs.
Shri Maya Hira Patil ...Respondent

Mr K.K. Tated, A.G.P. for the Appellant.
Mr S.M. Kamble for the Respondent.

CORAM : ABHAY S. OKA, J.

DATE : APRIL 04, 2006.

JUDGMENT:

1. The Appellant-State of Maharashtra has taken exception to the judgment and award dated 31st January, 1989 passed by the learned Civil Judge, Senior Division, Raigad at Alibag in a reference made at the instance of the Respondent under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act of 1894).

2. The acquired land is located at Panvel, Taluka Panvel, District Raigad. The land was notified for acquisition under section 4 of the said Act of 1894 issued on 03rd February, 1970. The purpose of acquisition was development of satellite city of New Bombay.

3. The Special Land Acquisition Officer made an Award. The claimant did not accept the award of the Special Land Acquisition Officer and applied under section 18 of the said Act of 1894. By the impugned judgment and award the Reference Court came to the conclusion that market value of the acquired land at the relevant date was Rs.15/- per sq. meter.

4. Shri Tated, the learned A.G.P. submitted that considering the evidence on record, the market value awarded by the Reference Court is on the higher side. Shri Kamble appearing of the Respondent opposed the Appeal. He has addressed me on cross-objection filed by the Respondent by which the prayer is made for fixing the market value at the rate of Rs.25/- per sq. meter. He placed reliance on the decision of a Division Bench of this Court dated 25th and 26th February, 1993 in First Appeal No.754 of 1986 (Nama Padu Hudar & 4 ors. Vs. State of Maharashtra) and other connected First Appeals.

5. I have considered the submissions. In the case of Nama Padu Hudar the Division Bench of this Court dealt with Appeals arising out of awards made under section 18 of the said Act of 1894 pertaining to lands at villages Panvel and Kamothe in Taluka Panvel,

District Raigad. The said lands subject-matter of the said group of Appeals were also notified for acquisition for New Bombay Project by a notification dated 03rd February, 1970. The Division Bench categorised the lands into five categories depending upon the distance of the acquired land from the national highway and from Zilla Parishad Road. The method of dividing the lands into categories and fixing rate for each category adopted by the Division Bench has been expressly upheld by the Apex Court in the decision of the case of Shantadevi Ruparel Vs. Special Land Acquisition Officer in Civil Appeal No.1557 of 2006.

6. Perusal of the evidence in this case shows that the acquired land is located at the distance of one half kilo meter (i.e. 500 meters) from Mumbai-Pune National Highway. Thus, the acquired land will fall in category II fixed by the Division Bench in the case of Nama Hudar (supra) which covers lands which are situated within the distance of 800 meters from Mumbai-Pune National Highway. For the said category of lands the market rate has been fixed at Rs.23/- per sq. meter.

7. Admittedly, the decision of Division Bench has

attained finality. As stated earlier, the Apex Court has approved the said decision in the case of Shantadevi (Supra). It is also an admitted position that number of lands from village Panvel, Kamothe and other adjoining villages from Taluka Panvel, District Raigad were notified for acquisition for the same purpose under section 4 of the said Act of 1894 by notification dated 03rd February, 1970. The Division Bench in the said case of Nama Hudar (supra) has considered all aspects including location of the lands and its potential. In my view, there is no reason why the market value fixed by the said decision should not be applied to the present case. Hence, the claimant will be entitled to market value at the rate of Rs.23/- per sq. meter.

9. Hence, I pass the following order:

(i) First Appeal No.48 of 1991 is dismissed.

(ii) Cross-objection (St.) No.8304 of 1991 filed by the Respondent in the First Appeal is allowed.

(iii) The impugned judgment and award is modified to the extent that the Respondent-claimant will be entitled to market value at the rate of

Rs.23/- per sq. meter together with all statutory benefits under section 23(1-A), 23(2) and 28 of the said Act of 1894. The Respondent will be entitled to proportionate costs of the Reference.

(iv) The Reference Court will make necessary calculation of the compensation payable to the Respondent-claimant within a period of four months from the date of receipt of the writ of this order.

(v) The State Government will pay costs of the Appeal to the Respondent.

(vi) The Respondent will be entitled to proportionate costs from the State Government in the cross-objection.

(vii) Certified copy expedited.

JUDGE